

April 12, 2022

BRIELLE PLANNING BOARD  
TUESDAY, APRIL 12<sup>th</sup>, 2022

The Regular Meeting of the Brielle Planning Board was held on Tuesday, April 12<sup>th</sup>, 2022, at 6:00 p.m., virtually. Ms. Trainor read the OPMA compliance statement and then announced it was time for the Salute to the Flag and a moment of silent prayer. Roll call was taken:

Present – Mayor Thomas Nicol, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Charlie Tice

Absent – Councilman Frank Garruzzo

Also present were Mr. David Clark, Board Attorney, Mr. Alan Hilla, Board Engineer and Ms. Denise Murphy, Recording Secretary. There were 20 people in the audience.

A motion was made to approve the Minutes of March 8<sup>th</sup>, 2022, this done by Karen Brisben, seconded by Stephanie Frith, and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Corinne Trainor, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

APPOINTMENT: Charlie Tice to become a regular Class IV member to replace the term of James Maclearie who has resigned.

A motion was made to approve the appointment, this done by Mayor Thomas Nicol, seconded by Karen Brisben, and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

CORRESPONDENCE: Notice of Route 70 Natural Gas Main Replacement, Manasquan River Crossing, maps included and the January/February issue of NJ Planner.

OLD BUSINESS: Consideration of approval of Resolution for Block 51, Lots 10.01 & 11, 319 & 401 Leslie Avenue, Delgado & Hamilton, subdivision to move rear lot lines.

**RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF KELLY AND ROBIN DELGADO SEEKING MINOR SUBDIVISION**

**APPROVAL AND VARIANCE RELIEF FOR THE PROPERTIES LOCATED AT 319 LESLIE AVENUE (BLOCK 51, LOT 11) AND 401 LESLIE AVENUE (BLOCK 51, LOT 10.01)**

**WHEREAS**, Kelly and Robin Delgado (the “**Applicants**”) filed an application with the Planning Board of the Borough of Brielle (the “**Board**”) seeking minor subdivision approval and variance relief for the properties located at 319 Leslie Avenue which is identified on the tax map of the Borough of Brielle as Block 51, Lots 11 (hereinafter, “**Lot 11**”) and 401 Leslie Avenue which is identified on the tax map of the Borough of Brielle as Block 51, Lot 10.01 (hereinafter, “**Lot 10.01**”)(these two properties are collectively referred to herein as the “**Properties**”); and

**WHEREAS**, the Properties are both located within the Borough’s R-4 Residential Zone (the “**R-4 Zone**”); and

**WHEREAS**, Lot 11 is owned by the Applicants and is improved with a two story residential dwelling and a shed; and

**WHEREAS**, Lot 10.01 is owned by Diana Hamilton who has provided her consent to this application; and

**WHEREAS**, Lot 10.01 is improved with a 1½ story residential dwelling and a detached garage; and

**WHEREAS**, the existing and proposed uses of both lots conform to the zone, but the principal structures on both lots are not conforming to the zone; and

**WHEREAS**, the Applicants are seeking a minor subdivision approval for the transfer of .0007 acres from the rear of Lot 10.01 to the rear of Lot 11 as shown in more detail within the plans submitted with the application; and

**WHEREAS**, the Applicants are not proposing to construct any new improvements on the Properties or to alter the existing improvements on the Properties, and instead this application is merely seeking approval for the subdivision associated with this land transfer as well as necessary variance relief; and

**WHEREAS**, the Properties have the following existing non-conformities which are not being altered in any way through the approvals sought through this application:

- (a) Minimum side setback (Lot 10.01)--8 feet required; 4.4 feet existing;
- (b) Minimum front setback (Lot 10.01)—25 feet required; 10.9 feet existing; and

**WHEREAS**, the Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below):

- (a) Minimum side setback (Lot 11)--8 feet required; **7.6 feet existing**;
- (b) Maximum lot coverage (Lot 11)—20% allowed; **22.43% existing; 21.51%**

**proposed**; and

**WHEREAS**, the Applicants submitted the following documents in support of this application:

- (a) minor subdivision plan prepared by David J. Von Steenburg, P.L.S. dated August 17, 2021;
- (b) an application package signed by the Applicants and by Diana Hamilton (the owner of Lot 10.01); and

**WHEREAS**, the Applicants also sought submission waivers to its application for (i) elevations and structures and topography of site, (ii) existing streets, watercourses, floodplains,

easements, drainage structures, etc. within 500 feet, (iii) proposed drainage systems/structures within 500 feet, and (iv) proof of submission to Freehold Soil Conservation District; and

**WHEREAS**, the Board has concluded, based upon the recommendation of the Board Engineer, that due to purpose and scope of the application, these submission waivers are reasonable and warranted; and

**WHEREAS**, the Board was also provided with letters dated December 21, 2021 and January 21, 2022 prepared by the Board Engineer, Alan Hilla of H2M Associates, Inc., providing a technical review of the application; and

**WHEREAS**, the Planning Board held hearings on this application on January 11, 2022, February 8, 2022, and March 8, 2022;

**WHEREAS**, the Board considered the following testimony presented at the hearing in connection with this application:

**January 11, 2022 hearing**

Mr. Clark stated he was notified earlier in the day by Karen Brisben, Planning Board Secretary, that there was a notice issue with the application. Mr. Clark stated the applicant had filed an affidavit stating they had noticed all the individuals within 200 feet of the property but had not issued notice to the utility companies, which is also a legal requirement. Mr. Clark stated that since the utility companies were not properly noticed, his recommendation was to carry the application to the next meeting. Mr. Clark announced to those who were attending for this application that the application would be carried to the next meeting so the applicant would not have to re-notice the people who were already properly noticed.

Ms. Delgado stated that she felt Mr. Clark's recommendation was fair and thanked the Board. Ms. Trainor asked Ms. Hamilton if she had any questions or comments. Ms. Hamilton was experiencing technical difficulties. Ms. Trainor stated that the adjournment might also help with the technical challenges as well. Ms. Brisben asked Mr. Clark if the applicant would need to re-notice in the newspaper. Mr. Clark stated all the applicant would need to do is to cure the deficiency which is to notice the utility companies and then file an amended affidavit indicating that had been completed.

**February 8, 2022 hearing**

Mr. Clark began by stating that at the last meeting there had been a notice issue and asked if the notice issue was corrected. Ms. Brisben stated that she has received the proper information needed to correct the issue.

Mr. Robin Delgado and Ms. Diana Hamilton were sworn in by Mr. Clark. Mr. Delgado stated they were before the Board seeking a minor subdivision of the rear portion of the Hamilton property and relocating that pie shaped area onto the rear of our property. Mr. Clark asked Ms. Hamilton if she signed the application and if she agreed with what was being requested in this application. Ms. Hamilton answered she did agree with the request.

Ms. Trainor referred to a letter from Mr. Hilla, dated December 21<sup>st</sup>, 2021, and asked Mr. Delgado if he had received the letter. Mr. Delgado stated he had received the letter. Ms. Trainor asked Mr. Hilla to go through the issues and asked Mr. Delgado to respond to them. Mr. Hilla referred to a survey that was prepared by Morgan Engineering and Survey on August 17<sup>th</sup>, 2021, which shows the configuration of the two Lots and then stated that the geometry of the Lot that is on the survey does not coincide with the geometry of the Lot as set forth on the tax map. Mr. Hilla stated he was hoping for some testimony as to the discrepancy. Mr. Delgado responded that the discrepancy pertains to the area in the rear of their residence that is owned by Diana Hamilton, so anytime they want to access the water, they have to cross over her property and that is why they are requesting the subdivision. Mr. Delgado stated they are looking to add 300 square feet to their property.

Mr. Hilla stated that the Board takes surveys at face value but in the face of conflicting information it is hard to know which one is right. Mr. Hilla stated that it was a noticeable discrepancy and that he thinks it should be rectified before the Board can decide. Ms. Hamilton stated she did not know there was a discrepancy because all she has are the surveys that had been done. Mr. Delgado asked Mr. Hilla if he thought a surveyor could answer that question. Mr. Hilla answered that a surveyor could provide testimony or a report. Ms. Brisben stated that the Board has the original subdivision file from several years ago at the Borough Hall and asked Mr. Hilla if he thought those maps could help. Mr. Hilla replied that it may be a benefit, but he thought ultimately the burden of proof is on the applicant.

Ms. Brisben stated the signed subdivision map from 2014 will show what the Board approved at that time, which is at Borough Hall and stated to Ms. Trainor if the Board would carry the application, she could get those plans to Mr. Hilla. Ms. Trainor answered that she thought all the issues should be addressed so when the applicant comes back next month, they could answer all the questions at once and asked Mr. Hilla to go through the rest of his letter for the applicant.

Mr. Hilla addressed Lot 11 and said to his knowledge there is a new structure, there is a nonconforming condition on that lot, and he does not remember ever issuing any variance relief, so he was not sure how the Board would want to handle that because there are variance conditions that were never approved. Mr. Hilla asked Mr. Delgado what the setbacks are for the shed. Mr. Delgado replied that is under 70 square feet. Mr. Hilla responded that the shed still has to abide by the setback requirements. Mr. Hilla stated that the requirement is 5 feet. Ms. Hamilton said the

shed is 4.7 feet. Mr. Delgado stated there was a great deal of shrubbery and that it is impossible to run a string line from the front of the property to the back so this may be an error on behalf of the surveyor. Mr. Hilla addressed his concerns for the lot coverage for both lots. Mr. Delgado asked Mr. Hilla if there would be any resolution the Board would seek on behalf of the coverage issues.

Mr. Clark stated that typically if Mr. Hilla identifies deviations from setback or coverage requirements then the applicant would need to show the Board why a variance should be granted. Mr. Clark stated that the last issue in Mr. Hilla's letter is when a subdivision is requested there are two different ways of filing the subdivision, one is by deed and the another by plat with certain procedures for doing it one way or the other. Ms. Brisben stated she could pull out the 2014 subdivision that was signed by the Board and could send it to Mr. Delgado so he could show it to his surveyor and maybe that could help. Mr. Delgado stated he felt that would be helpful. Mr. Clark suggested that it may be helpful for Mr. Delgado's surveyor to reach out to Mr. Hilla to discuss the issues presented. Ms. Trainor stated that it was her suggestion based on what had been discussed and before the Board or the public have questions and comments, it would make more sense to let Mr. Delgado finish putting together his affirmative proofs in support of the application and carry it to the next meeting. Ms. Trainor asked Mr. Delgado and Ms. Hamilton if that worked for them to which they replied that it did.

### **March 8, 2022 hearing**

Before testimony started, Mr. Clark reminded all that both Ms. Hamilton and Mr. Delgado were placed under oath last month, then there were some questions and issues about what their testimony was going to be about and Mr. Hilla's letter, then there was a discrepancy about their survey matching the tax map; after that Mr. Hilla took a look at it again and realized their survey did match the tax records so this can proceed. Mr. Hilla agreed and said he was looking at an old version of the tax map and the survey submitted was in keeping with the most recent tax map sheet and he apologized for the confusion.

At this point Mr. Delgado was having a problem with his computer microphone and could not be heard, so Ms. Hamilton stepped in and told the Board there was another updated survey submitted that shows his house is 8 feet from the property line, Ms. Trainor told her the Board had received that, a survey done by Morgan Engineering & Surveyors which says the home is in compliance with the setbacks. Ms. Hamilton said yes so, the setback is no longer a problem. In an answer to a question from Ms. Trainor on other issues, Mr. Clark felt that testimony should be given to clarify all setback and coverage questions.

At this time Mr. Delgado was able to communicate with the Board and verified that, with the new survey, the house is shown to be compliant, pertaining to the shed, which is really a kids' playhouse, which is 5.3 feet from the property line so it conforms. As far as the front setback for lot 10, that pertains to Diana Hamilton's house and he couldn't really comment on the lot coverage. Ms. Hamilton said the coverage will be 21.51%. Mr. Clark said the property already exceeded the building coverage, it is existing, and this subdivision reduces that, so the deviation of coverage is

being improved. Ms. Hamilton added that her lot exists as it is and there is no change, the issues were on lot 11 which will have the building coverage reduced to 21.51%.

As there was no more testimony, the Board had an opportunity to ask questions; Mayor Nicol had no questions, Councilman Garruzzo asked Mr. Hilla if all his questions were answered by the testimony and Mr. Hilla said they were outlined, he was questioning if the proofs for the variance relief were there and he wanted to know how the filing of the subdivision was going to be. Mr. Clark remembered conversations from last month that the applicants were not sure how to proceed and he asked Mr. Delgado if they had looked into how they were going to file the subdivision, either by deed or by filing a plat with Monmouth County Planning Board. Mr. Delgado said he was not familiar with either process and he would like to do the more practical one. Ms. Hamilton asked if all that needs to be done is to have an attorney draw a new deed and file it; Mr. Hilla felt that map filing is more complicated than filing by deed but they do need an attorney to come up with the descriptions of what is being transferred, it is not the Board's place to advise on how to do this. Mr. Delgado then said they would be filing by deed and Ms. Hamilton agreed. Mr. Maclearie had no questions, Mrs. Brisben told the applicants they do need to get new lot numbers from the Tax Assessor, usually she did that if the applicants didn't, but she did not do so this time; after they get the new lot numbers they will have to submit a revised plan showing the correct lot numbers; other than that she had no questions. Mr. Jones had a question about the deck, does that serve as a roof for the lower deck? Mr. Delgado said the second-floor decking is Ipe (Brazilian Walnut). Ms. Frith had no questions as well as Ms. Trainor.

At this time, the hearing was opened to the public for questions to the applicants and there was no response so that portion was closed, and the Board went into comments. Mayor Nicol had no problem with the application as long as Mr. Hilla and Mr. Clark were satisfied with it. Councilman Garruzzo agreed with the Mayor and also did not have any issues with the application, he thought it made more sense to move the lines. Mr. Maclearie agreed with both the Mayor and Councilman, Ms. Brisben asked that it be put in the Resolution that revised plans have to be submitted, 4 copies showing the new lot numbers. Mr. Jones agreed with the Board with no further comments, Ms. Frith was also for approval. Ms. Trainor did believe that the applicants did meet their burden of proof and had no problem with their application.

The hearing was then opened to the public for comments regarding the application and, as there was no response, that portion was closed. Mr. Clark noted the conditions that the subdivision will be filed by deed and that the Applicants shall file revised plans, and in terms of the lot coverage this application is making the lot coverage better. Ms. Trainor then requested a motion to approve the application.

**WHEREAS**, the Board after carefully considering the evidence presented by the Applicants at the hearing and of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified.
- b. The Properties are located within the Borough's R-4 residential zone.
- c. Lot 11 is owned by the Applicants and is improved with a two story residential dwelling and a shed.
- d. Lot 10.01 is owned by Diana Hamilton who has provided her consent to this application.
- e. Lot 10.01 is improved with a 1½ story residential dwelling and a detached garage.
- f. The Applicants are seeking a minor subdivision approval for the transfer of .0007 acres from the rear of Lot 10.01 to the rear of Lot 11 as shown in more detail within the plans submitted with the application.
- g. This application is not proposing to construct any new improvements on the Properties or to alter the existing improvements on the Properties.
- h. The Properties have the following existing non-conformities which are not being altered in any way through the approvals sought through this application: (i) Minimum side setback (Lot 10.01)--8 feet required; 4.4 feet existing; and (ii) Minimum front setback (Lot 10.01)—25 feet required; 10.9 feet existing.
- i. The Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below): (i) Minimum side setback (Lot 11)--8 feet required; **7.6 feet existing**; and (ii) Maximum lot coverage (Lot 11)—20% allowed; **22.43% existing; 21.51% proposed**.
- j. Thus, the only variance relief being sought is to maintain an existing condition regarding the minimum side setback for Lot 11 and to reduce the already non-conforming lot coverage for Lot 11 so that it is closer to conforming with the requirements of the Borough Code.
- k. N.J.S.A. 40:55D-70(c)(2) allows a planning board to grant variance relief without a showing of undue hardship where the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of such deviation would substantially outweigh any detriment and the variance will not substantially impair the intent of the zone plan and zoning ordinance



- l. This subdivision application and the variance relief sought therein advances the purposes of the Municipal Land Use Law, does not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.
- m. The Board also finds that the proposed subdivision furthers the goals of the MLUL and of the Borough Code by, among other things, making the shapes of Lots 10.01 and 11 more uniform and more consistent with the topography of the neighborhood and by providing the owners of Lot 11 with waterfront access without having to cross a sliver of Lot 10.01.
- n. T
- o. The Board also finds that the proposed subdivision does not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

**WHEREAS**, Mr. Maclearie moved to approve the application; this motion was seconded by Ms. Frith. At that time, the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Karen Brisben, Stephanie Frith, Jay Jones, James Maclearie, Corinne Trainor

Noes: None

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Brielle, that the application is hereby approved and granted subject to the following conditions:

- a. Prior to and as a pre-condition to filing the deed(s) to perfect this subdivision, the Applicants shall obtain lot numbers for the subdivided lots from the Borough Tax Assessor and shall thereafter file four (4) sets of revised plans showing the new lot numbers with the Board Secretary;
- b. The Applicants shall record and file a subdivision deed (or deeds) conforming to the requirements of the Municipal Land Use Law within the time period required under N.J.S.A. 40:55D-54, unless such time period is extended as authorized under N.J.S.A. 40:55D-52;
- c. The Applicants shall pay all taxes and other applicable assessments, costs, and fees to date, as applicable;
- d. The Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application;

- e. All representations made under oath by the Applicants or their agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above Resolution was made by Karen Brisben, seconded by Stephanie Frith, and approved on the following roll call vote:

Ayes: Mayor Thomas Nicol, Corinne Trainor, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

Not Eligible to Vote: James Stenson, Chris Siano, Charlie Tice

OLD BUSINESS: Consideration of approval of Resolution for Block 10.01, Lot 15 & 16, 704 & 704 1/2 Union Lane, Scott & Siano, subdivision to move rear lot lines.

**RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF CHRISTIAN AND CARRIE SIANO SEEKING MINOR SUBDIVISION APPROVAL FOR THE PROPERTIES LOCATED AT 704 ½ UNION LANE (BLOCK 10.01, LOT 16) AND 704 UNION LANE (BLOCK 10.01, LOT 15)**

**WHEREAS**, Christian and Carrie Siano (the “**Applicants**”) filed an application with the Planning Board of the Borough of Brielle (the “**Board**”) seeking minor subdivision approval for the properties located at 704 ½ Union Lane which is identified on the tax map of the Borough of Brielle as Block 10.01, Lot 16 (hereinafter, “**Lot 16**”) and 704 Union Lane which is identified on the tax map of the Borough of Brielle as Block 10.01, Lot 15 (hereinafter, “**Lot 15**”)(these two properties are collectively referred to herein as the “**Properties**”); and

**WHEREAS**, the Properties are both located within the Borough’s R-3 Residential Zone (the “**R-3 Zone**”); and

**WHEREAS**, Lot 16 is owned by the Applicants; and

**WHEREAS**, Lot 15 is owned by Ann Scott who has provided her consent to this application; and

**WHEREAS**, Lot 16 is rectangular-shaped and is improved with a newly-renovated two-story residential dwelling; and

**WHEREAS**, Lot 15 is L-shaped (with a portion of the lot being located behind the rear of Lot 16) and is improved with an historic two-story residential dwelling and a rear barn; and

**WHEREAS**, the owner of Lot 15 is proposing to convey a 3,260 square foot portion of the rear of Lot 15, which is shown in more detail within the plans submitted with the application, to the owners of Lot 16 (the Applicants) so that the Applicants may construct a garage on their property; and

**WHEREAS**, as to Lot 15, the existing and proposed lot conform to the zone, but the existing dwelling and barn do not conform to the zone; and

**WHEREAS**, as to Lot 16, the existing and proposed dwelling and proposed garage conform to the zone, but the existing and proposed lot do not conform to the zone; and

**WHEREAS**, since this application is not proposing the construction of any improvements, none of the existing conditions on the Properties are changing; and

**WHEREAS**, the Properties have the following existing non-conformities which are not being altered in any way through the approvals sought through this application:

LOT 15

- (a) Front yard (dwelling)--30 feet required; 21.1 feet existing;
- (b) Rear yard (barn)—11.52 feet required; 10.9 feet existing;

LOT 16

- (c) Lot width—75 feet required; 62.11 feet existing; and

**WHEREAS**, the Applicants submitted the following documents in support of this application:

- (a) subdivision plan prepared by Charles O'Malley, P.L.S. dated November 15, 2021;
- (b) plans of survey of existing Lots 15 and 16;
- (c) an application package signed by the Applicants and by Ann Scott; and
- (d) a zoning permit denial letter from Zoning Officer Elissa Commins dated November 29, 2021; and

**WHEREAS**, the Applicants also sought plat submission waivers for the following items set forth within Code Section 24-7.2:

- (a) property owners within 200 feet; and
- (b) locations and widths of streets within 500 feet of the property; and

**WHEREAS**, the Board was also provided with a letter dated January 17, 2022 prepared by the Board Engineer, Alan Hilla of H2M Associates, Inc., providing a technical review of the application; and

**WHEREAS**, the Planning Board held a hearing on this application on March 8, 2022;

**WHEREAS**, prior to the hearing, Mayor Nicol and Councilman Garruzzo recused themselves and did not participate in this application; and

**WHEREAS**, at the hearing, the Applicants submitted the following exhibits:

- (a) Exhibit A-1 Minor Subdivision Plat prepared by Charles O'Malley, dated July 7, 2020, last revision Nov. 4, 2021; and
- (b) Exhibit A-2 packet of photos numbered as 1-11; and

**WHEREAS**, the Board considered the following testimony presented at the hearing in connection with this application:

Mr. Michael Rubino, Esq. came forward for this subdivision. He agreed there are a few existing conditions on the property as stated in the introduction of this hearing, none of the existing conditions can be corrected by this application, if the Board will look at the map, Lot 15 is oversized and is a flag lot; the left turn it takes goes to the rear of Lot 16, which is oversized. Ms. Scott would like to give a portion of the flag lot to Mr. and Mrs. Siano so they can add it to their existing lot. They cannot square off the lot as there is a barn in the rear and that would have to be removed if they went straight back, so they are jogging off that rear side line to keep the barn. In agreement with Mr. Hilla's letter they have identified the existing conditions and the waiver that is needed, paragraph 2, and Mr. Joe Kociuba was present to testify as to paragraph 3 of this report, paragraph 4 says they need new lot numbers and this will be done, the subdivision will be filed by deed. Mr. Rubino did have Mr. Siano with him to address any questions that might be raised and Mr. Rubino said he did speak with Mr. Clark today as Mr. Siano is a Planning/Zoning Board member and both agreed Mr. Siano has a perfect right to come before the Board as an applicant, but the courts caution to have the application without the applicant testifying is a better procedure so most of the case will be presented by Mr. Kociuba. Mr. Rubino also agreed that the Mayor and Councilman were correct in recusing themselves as they appointed Mr. Siano to the Board.

Mr. Joe Kociuba was then sworn in from KBA Engineering Services in Manasquan. He indicated that he would provide testimony as a Licensed Planner and Engineer. As he has given testimony before this Board many times he was accepted as an expert witness and proceeded with his testimony. Mr. Kociuba told the Board he did not do the actual subdivision plan but was familiar with the property; Lot 15 is 27,597 square feet and is an oversized lot that is L shaped and goes left behind Lot 16, it has a residential structure, driveway, and a historic barn at the rear of the property. He asked to share his screen and his plan was marked at Exhibit A-1, Minor Subdivision Plat prepared by Charles O'Malley, dated July 7, 2020, last revision Nov. 4, 2021. He showed the Board where the barn structure was and then addressed Lot 16, which is 11,645 square feet, also oversized, is 62.22 feet wide where 75 feet is required and is 187 feet deep that contains a two-story dwelling which was recently completely renovated. Both properties have driveway access to Union Lane, the lot line adjustment being requested is at the back of the properties. Lot 15 will transfer 3,260 square feet to Lot 16 which will allow them to construct a garage, this will create a lot extension of 50x55 feet. The new lot line will not extend fully to the width of the property, there will be a 12-foot jog in order to keep the barn structure setback on Lot 15. All existing nonconformities are pre-existing and this will not change.

As there will be a garage built on Lot 16, they are extending the driveway, done in crushed shell, to match the existing driveway materials. Ordinance 21:31.22 states that a paved driveway needs a certain setback but if the access is not paved there are no setback requirements. Mr. Hilla, in his report, had brought up some existing trees and Mr. Kociuba agreed there are trees where the garage will be but noted there are smaller trees, also there are two larger trees there but the larger trees are damaged and rotting and will be coming down, the trees around the perimeter of the lot

will not be affected by any construction and will stay. He ended by saying there are no variances being asked for and felt this application can be approved.

Mr. Kociuba then showed the Board a series of photos he had taken, these were marked as Exhibit A-2:

Photo 1 – the home on Lot 16 as it exists today.

Photo 2 – the driveway on Lot 16.

Photo 3 – the end of the crushed shell driveway on Lot 16 and the shed.

Photo 4 – the rear yard fencing that is to come down on Lot 16, the shed will be moved and the driveway will be extended. The barn on Lot 15 can be seen on the right.

Photo 5 - Another photo of the rear of Lot 16 showing smaller trees to be removed for the proposed garage, as well as two larger trees that are sick and will come down as well.

Photo 6 – on Lot 16, looking northeast towards the barn.

Photo 7 – shows the damage & rot of tree on the right that will be removed.

Photo 8 – another tree that is rotting and will be removed. Trees on the fence line are far enough away from construction and will stay.

Photo 9 – more photos of trees.

Photo 10 – more photos of trees.

Photo 11 – the driveway on Lot 16 looking out to Union Lane.

As this was the end of Mr. Kociuba's testimony, Mr. Hilla was asked if he had any questions and he did not have any questions. Ms. Trainor then asked the Board members for questions. Mr. Maclearie did not have any, Ms. Brisben asked about drainage with trees coming down and new construction and Mr. Kociuba did not see any problem but commented they are putting in a dry well. Mr. Jones felt it was well presented and Ms. Frith felt it was straightforward and neither Board member had questions, as well as Ms. Trainor. She then opened the hearing to the public for questions to Mr. Kociuba and there was no response so that portion was closed.

Mr. Rubino had no more witnesses and said he had presented the case with nothing further to add at this time, he would like to hear from the public before he summed up the application. At this time, the hearing was opened to the public for comments and there was again no response so that portion was closed. Mr. Rubino then summarized the application and said this was a clean application, they are taking 3,260 square feet from the flag lot and somewhat straightening out the lot line, both lots are oversized, and he asked the Board to look favorably on this.

The Board then gave their comments, Mr. Maclearie felt it would be an improvement and would be in favor, Mrs. Brisben was for it as well and wanted to let the applicant know she had received new lot numbers from the Assessor and she will pass this information on to Mr. Rubino so 4 sets of revised plans can be submitted with the correct new lot numbers, she also asked this be put in the Resolution.

At this time Ms. Trainor had to interrupt the comments being made, she saw a hand raised in the chat box and asked Mr. Clark if this was permissible as the public portion had been closed.

Mr. Clark said this is within the Board's discretion, sometimes there are difficulties with members of the public joining the meeting virtually, and the vote has not been taken yet. Mr. Rubino said he had problems himself trying to speak and had no objection to this. The Board was agreeable to having this done and Jacque Lucas was then sworn in, 706 Union Lane. She asked if there was any chance, in the future, that the driveway on Lot 16 would be paved as it is on the property line. Mr. Kociuba said there is a 5 yard setback requirement if this were going to be paved and they do not plan on doing this.

Going back to comments, Ms. Brisben was asked again for comments, and she added that she was in favor and felt it was good to be straightening out the lot lines, Mr. Jones had no comments and agreed with the rest of the Board, Ms. Frith felt it look good and was in favor as was Ms. Trainor. She asked Mr. Clark to go over any conditions and he said the subdivision will be perfected by deed and 4 sets of revised plans showing the new lot numbers have to be submitted.

**WHEREAS**, the Board after carefully considering the evidence presented by the Applicants at the hearing and of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified.
- b. The Properties are located within the Borough's R-3 residential zone.
- c. Lot 16 is owned by the Applicants.
- d. Lot 16 is rectangular-shaped and is improved with a newly-renovated two-story residential dwelling.
- e. Lot 15 is owned by Ann Scott who has provided her consent to this application.
- f. Lot 15 is L-shaped (with a portion of the lot being located behind the rear of Lot 16) and is improved with an historic two-story residential dwelling and a rear barn.
- g. The owner of Lot 15 (Ann Scott) is proposing to convey a 3,260 square foot portion of the rear of Lot 15, which is shown in more detail within the plans submitted with the application, to the owners of Lot 16 (the Applicants) so that the Applicants may construct a garage on their property.
- h. The Properties have the following existing non-conformities which are not being altered in any way through the approvals sought through this application: (Lot 15) (i) Front yard (dwelling)--30 feet required; 21.1 feet existing; (ii) Rear

yard (barn)—11.52 feet required; 10.9 feet existing; (Lot 16) (iii) Lot width—75 feet required; 62.11 feet existing.

- i. Both Lot 15 and Lot 16 are oversized and the land transfer proposed through this subdivision will result in both lots being more regularly shaped and consistent with other the size and shape of other lots in the neighborhood and will straighten out Lot 16 (which is currently an L-shaped flag lot).
- j. As there will be a garage built on Lot 16, the Applicants will extend the driveway using crushed shell materials to match the existing driveway materials. This is consistent with Borough Code requirements which provide that while a paved driveway requires certain setbacks, that there are no setbacks if the driveway is unpaved. The Applicants are aware that if they seek to pave the driveway in the future, they will need to apply to the Board for variance relief.
- k. Code Section 24:9-4 requires side lot lines to be perpendicular with street lines. This proposed subdivision will create a parallel jog in the common lots lines of the Properties. The Board hereby grants a design waiver for this condition.
- l. The relief sought through this application furthers the goals of the MLUL and of the Borough Code and will not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

**WHEREAS**, Mr. Maclearie moved to approve the application; this motion was seconded by Ms. Frith. At that time the application was approved by the following roll call vote:

Ayes: Karen Brisben, Stephanie Frith, Jay Jones, James Maclearie,  
Corinne Trainor

Noes: None

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Brielle, that the application is hereby approved and granted subject to the following conditions:

- a. The lot numbers to be assigned to the lots created through this subdivision may change and are subject to the final approval of the Borough Tax Assessor. Prior to and as a pre-condition to filing the deed(s) to perfect this subdivision, the Applicants shall obtain lot numbers for the subdivided lots from the Borough Tax Assessor and shall thereafter file four (4) sets of revised plans showing the new lot numbers with the Board Secretary;



- b. The Applicants shall record and file a subdivision deed (or deeds) conforming to the requirements of the Municipal Land Use Law within the time period required under N.J.S.A. 40:55D-54, unless such time period is extended as authorized under N.J.S.A. 40:55D-52;
- c. The Applicants shall use commercially reasonable efforts to preserve the trees and vegetation on the Property, but will remove the two large trees described during testimony at the hearing which are rotting;
- d. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable;
- e. The Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application;
- f. All representations made under oath by the Applicants or their agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above Resolution was made by Karen Brisben, seconded by Jay Jones, and approved on the following roll call vote:

Ayes: Corinne Trainor, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

Not Eligible to Vote: Mayor Thomas Nicol, Councilman Garruzzo, James Stenson, Chris Siano, Charlie Tice

OLD BUSINESS, CONT: Continuation of Application for variance relief for Block 60, Lot 17, 9 Crescent Drive, owned by Peter & Katelynn Cappiello, to allow renovations & addition to a single-family dwelling. Side Yard Setback — 10 feet required, 5.67 feet existing to southerly side, 6 feet proposed; 9.58 feet existing & proposed to northerly side second story. Maximum Building Coverage — 20% allowed, 25.9% existing & 28.5% proposed. Existing Nonconforming Conditions: Lot Area — 11,250 square feet minimum required, 7,268 square feet existing; Lot Width — 75 feet minimum required, 60 feet existing; Lot Depth — 125 feet minimum required, 111 feet existing; Rear Yard Setback — 35 feet required, 33.5 feet existing.

Attorney John Giunco, Giordano, Halleran & Ciesla, announced he was here for the applicant and Attorney Edward Liston announced that he was here for several neighbors who were interested parties in this matter.

Ms. Brisben announced she was on vacation with a 6-hour time difference and had just received an email from Mr. Liston. Ms. Brisben said she sent the email to all the Board members but probably not until around 5:45pm. Ms. Brisben stated that perhaps Mr. Liston could go over the letters because she was not sure all the Board members had a chance to read them.

Ms. Trainor asked Mr. Giunco to remind the Board how things were left in the last hearing. Mr. Giunco stated they had presented all of their witnesses and that Mr. Liston had finished his cross-examination of Mr. Janiw. Mr. Giunco stated that Mr. Janiw was available for questions and/or comments.

Ms. Trainor asked if there were any members of the public that had questions for Mr. Janiw. Hearing none, Ms. Trainor stated it was time to hear questions for Mr. Janiw from the Board.

Ms. Brisben stated that in Mr. Janiw's previous testimony, he stated there would be no change to the footprint of the building and asked if this was correct. Mr. Janiw answered that they would be adding a structure in the back corner where the koi pond was.

Hearing no other questions from the Board, Ms. Trainor asked Mr. Liston if he had any witnesses or had a position that he would like to put forward. Mr. Liston stated he did not have any witnesses to present this evening. Mr. Liston stated that with respect to the letter emailed to the Board secretary earlier in the afternoon on April 12<sup>th</sup>, the second paragraph really expresses where the neighbors were in respect to the application. Mr. Liston then read the following into the Record, "During the time that this application has been pending, my clients have been working through me with John Giunco, the applicant's attorney, to revise the plans to the point where my clients are now in a position to support the application. I will attend the Zoom meeting tonight with at least one of my clients and will be glad to place that statement of the record."

Mr. Liston stated there were two additional letters attached to the email to Karen Brisben. Mr. Liston said one of the letters was from Mr. Giunco to him dated November 9<sup>th</sup>, 2021, and the other one a letter from him back to Mr. Giunco, dated November 16<sup>th</sup>, 2021. Mr. Liston stated when the letters were read together it synthesized the position of the clients and generated a solution to the differences in the two positions. Mr. Liston referenced the paragraph he called the "housekeeping" paragraph in his letter and stated that the paragraph had been completely satisfied. Mr. Liston referenced a letter written by him, indicating that all of their comments were on the Record and there were no further problems or comments with regard to the basement and how it was being handled. Mr. Liston thanked the Board for taking the time to consider the application and indicated that their questions and comments helped to solve the issues and said he now thought there would be a building they all could be proud of.

Ms. Trainor asked Mr. Giunco if the mechanicals would be moved from the basement to the attic. Mr. Giunco replied that they would be relocated to the upper floors and was not sure if all of them would be in the attic but well above the base flood elevation. Ms. Trainor stated that in a November 9<sup>th</sup> letter, paragraph 2 it states that all mechanical equipment will be relocated from

the basement to the attic, and asked Mr. Giunco for more clarification. Mr. Giunco responded that since then the architects had made a little bit of an adjustment, but the idea was to keep it out of the flood area which was necessary. Mr. Clark stated that he believed revised plans had been submitted since the November letters so it could be possible that many of the issues that are in the November letters have been incorporated into these revised plans.

Ms. Trainor asked Mr. Giunco to give a review to the Board and if they had any questions, they would let him know. Mr. Giunco described to the Board the events that had occurred resulting in the Planning Board application. Mr. Giunco spoke about the stop work order, the variances sought, and all the changes they had agreed to. Mr. Giunco stated that they had met with some neighbors and had a good discussion, went through a lot of the issues and the applicant found that he could accommodate the concerns and could still have the house in the format he desired for his family.

Ms. Trainor asked Mr. Liston if he agreed with the comments Mr. Giunco had just provided. Mr. Liston answered he did and read from his letter dated today, April 12<sup>th</sup>, 2022 the following, "Should the Board decide to approve the above referenced application, I hereby request, on behalf of my clients, that the items set forth in the two enclosed letters be included in the Board's Resolution of Approval as Specific Factual Findings and as conditions of approval so that the agreement of the parties with respect to the development of the applicant's property is clearly stated as part of the public record." Mr. Liston stated he wanted to highlight the mention of the extra shrubbery that would be put in. Mr. Liston stated he did not believe it was on the plan and did want it included and not overlooked by the Board because that was something that was important to his clients. Mr. Giunco stated the applicant has agreed to that.

Ms. Trainor announced it was now time to hear comments from the public. Ms. Trainor read into the Record a public comment via an email sent to Ms. Brisben, Mr. Hilla, and Mr. Clark on February 7<sup>th</sup>, 2022, from Joseph Natoli, 2 Crescent Drive expressing his hope that the application would be approved and thought that it would be a nice addition to the neighborhood. Hearing no other comments from the public, Ms. Trainor asked Mr. Giunco if he would provide his summary to the Board. Mr. Giunco reviewed the details of the applications to the Board and stated they felt this would be a nice addition to the neighborhood and was worthy of the Board's approval.

Ms. Trainor announced it was now time for comments from the Board. Mayor Nicol stated he felt this would be a wonderful addition to the neighborhood and appreciated Mr. Cappiello's diligence. Mayor Nicol also addressed attorneys that send emails at the last minute and suggested that the Board may want to consider requiring that written submissions be made at least 48 hours before a meeting. Mayor Nicol stated he felt this would be fair for the attorneys, applicants, and the Board. Mr. Stenson stated he agreed with Mayor Nicol. Ms. Brisben stated that if this had been a normal application with a letter of denial, she would not be for this application but because they were given a building permit, had begun to build before the errors were discovered and because the neighbors now were all in agreement, she would be for approval. Mr. Jones stated he felt the lot coverage was very excessive but because Mr. Cappiello had made concessions to the neighbors, he would be for approval. Ms. Trainor stated her largest concern was the safety of the basement but does appreciate that the mechanicals and electric would be removed from the basement. Ms.

Trainor stated she felt the applicant had met the standards for the relief that he was seeking and thanked Mr. Giunco for being persistent and comprehensive in his presentation.

Ms. Trainor asked Mr. Clark to go over the different conditions and elements of a motion in respect to the application. Mr. Clark began by saying that he had reviewed the minutes from previous meetings and said he felt several of the concerns raised had been addressed and corrected through revised plans. Mr. Clark stated there would be stormwater infiltration with dry wells installed to the satisfaction of the Mr. Hilla, and the applicant would install shrubbery as per the agreement also to the satisfaction of the Mr. Hilla. Mr. Clark addressed the letters back and forth between Mr. Liston and Mr. Giunco that discussed issues that were incorporated into revised plans would also be conditions of the approval as well as the standard conditions.

Ms. Trainor asked for a motion to approve the application with the conditions Mr. Clark had listed. Mayor Nicol made a motion, seconded by Mr. Jones, and followed by the roll call vote.

Ayes: Mayor Thomas Nicol, Corinne Trainor, Karen Brisben, Stephanie Frith, Jay Jones

Noes: None

Not eligible to vote: James Stenson, Chris Siano, Charlie Tice

NEW BUSINESS: Application for variance relief for Block 81.01, Lot 9, 414 Melrose Avenue, owned by Frank & Theresa Angello, to allow construction of a deck. Rear Setback — 35 feet required, 37 feet existing, 23 feet proposed. Rear Setback for Accessory Use — 5 feet required, 4.9 feet existing/proposed. Existing Nonconforming Conditions: Lot Coverage 20% maximum allowed, 21.41% existing/proposed. Lot Area — 11,250 square feet required, 7,500 square feet existing. Lot Depth — 125 feet required, 100 feet existing.

Mr. Kociuba, engineer, stated he was appearing on behalf of the applicant, Mr. Angello who was also in attendance but was having computer issues so Mr. Kociuba stated, if permissible, he could present the application to the Board. Mr. Clark stated he felt that was okay and then addressed a letter he had received from Attorney Tim Middleton who had originally been retained to object to the application but the applicant had made some proposed changes to the application so they would be withdrawing their objection. Mr. Clark stated he thought Mr. Kociuba would address this but Mr. Clark said that he would read Mr. Middleton's letter into the Record, if necessary, to spell out his understanding of what is proposed to happen. Mr. Kociuba stated he had several conversations with Mr. Middleton earlier in the day regarding the objection his client had and have proposed some minor amendments to the deck in order to satisfy them.

Mr. Joseph Kociuba, KBA Engineering Services, Manasquan, NJ was sworn in by Mr. Clark. Mr. Kociuba stated he was a licensed engineer and licensed planner in the state of New Jersey. Mr. Kociuba stated he would be testifying as both an engineer and planner in this application. Ms. Trainor stated that Mr. Kociuba was qualified to testify as an engineer and planner. Mr. Kociuba stated he received Mr. Middleton's letter the morning of this meeting and quickly prepared an

exhibit marked as displayed Exhibit A-1 and described to the Board the Exhibit details and the minor adjustments to the deck the applicant had agreed to with the neighbor. Mr. Kociuba stated he would send the exhibit electronically to the Board after the meeting for the Record. Mr. Kociuba described the property to the Board. Mr. Kociuba stated that the single-family home and a deck were recently constructed and said the deck was 24x14 feet with a patio adjacent to it. Mr. Kociuba stated that the size of the deck, although it was less than 3 feet above grade, was determined that it did not comply with the porch requirements and needed relief for a rear yard setback. Mr. Kociuba stated that the applicant was proposing is to reduce the length of the deck to a landing along the back of the property that would have two steps down to an at grade deck. Mr. Kociuba stated that the elevation of the deck was the concern of the neighbor and as a result they are proposing a 4x22 foot landing with two steps down to an at grade deck. Mr. Kociuba stated that was what the applicant had agreed to with Mr. Middleton.

Mr. Kociuba stated there a question regarding the building coverage and stated that a small shed was added and as a result of the shed, the Lot coverage exceeds the 20% allowable. Mr. Kociuba stated that with the changes made he believed that a variance would not be required because the small landing now complies with the porch requirements. Mr. Kociuba deferred to Mr. Hilla and said if relief were needed for the small landing, they would like to amend their application. Mr. Kociuba stated that the shed in the back left corner is noncompliant in rear yard setback by an inch and said they will shift the shed over to comply. Mr. Kociuba stated that there is relief necessary for the coverage associated with that lot coverage, it was considered as anything with a roof on it and as a result they are slightly over the allowable coverage, a little over 21% where 20% is permitted. Mr. Kociuba stated that this was a substantially undersized lot, and the shed provides the ability to store maintenance materials inside a building which would have a better impact on the neighborhood.

Mr. Kociuba stated the last relief identified by Mr. Hilla is at the front of the property. Mr. Kociuba stated the applicant had installed a U-shaped driveway where the Ordinance identifies a curb cut to be 50 feet spaced and said that this curb cut was 20 feet, 19 feet at the very smallest portion. Mr. Kociuba stated that this is at the end of Melrose Avenue, one Lot in from the dead end. Mr. Kociuba stated that there were not many homes beyond this particular location and that this allowed for turning around and did not think this would have a detrimental impact but did provide the benefit of safety for additional turnaround and not having to back out onto Melrose Avenue. Mr. Kociuba stated he believed that the variances limited to the building coverage and the driveway separation distances could be granted under the C-1 and C-2 criteria. Mr. Kociuba stated there were definitely some hardships due to the size of the property and undersized lot, both in area and depth which would justify some small coverage relief and in rear yard setback relief. Mr. Kociuba stated there was also a comment from the neighbor about a spotlight that was on the shed which the applicant has agreed to remove.

Mr. Clark referenced Mr. Hilla's report and asked Mr. Kociuba about the half story and the calculations for that. Mr. Kociuba answered that he believed the half story did comply and was approved that way and is constructed so in his opinion there was no relief required.

Ms. Trainor asked Mr. Angello if he had anything he would like to add. Mr. Angello was sworn in by Mr. Clark. Mr. Angello stated he did not really have anything to add and said Mr. Kociuba had covered everything. Mr. Angello stated he had agreed to do everything the neighbor in the back had requested him to do.

Ms. Trainor asked Mr. Hilla if he had any questions for Mr. Kociuba. Mr. Hilla stated he did not really have any questions and said that he did concur with Mr. Kociuba regarding the landing and that there was no variance relief required for the proposed arrangement.

Ms. Trainor announced it was now time to hear questions for Mr. Kociuba from the Board. Hearing none, Ms. Trainor announced it was now time to hear questions for Mr. Kociuba from the public. Hearing none, Ms. Trainor asked Mr. Angello if he had any other witnesses to present to which he replied he did not. Ms. Trainor asked if there were anyone present on behalf of the neighbor or Mr. Middleton who wished to say anything to which there was no reply. Mr. Clark read Mr. Middleton's letter into the Record and mark it as O-1. Mr. Clark stated he wanted it to be clear who Mr. Middleton was representing, Michele Spencer, the owner of 414 Union Lane, and what concerns were addressed.

Ms. Trainor asked Mr. Hilla if he had any comments. Mr. Hilla stated that with regard to the half story, he put it in for completeness but said there are a number of checks and balances for both the Zoning and Construction officials when these things are going through the various approval processes. Mr. Hilla referenced the driveway and explained to the Board that allowing the variance for the driveway the way it is would not be the end of the world but that he believed that allowing a builder to "beg for forgiveness" after building something that is not conforming should be viewed narrowly. Mr. Hilla then referenced the shed and said the Board has had builders build houses to the 20% that is allowed and then come before the Board for a garage, or a shed and he feels that it is a slippery slope and thinks the Board should also take a narrow view on that too. Mr. Hilla stated that if a builder designed a house to have a little more storage area and a little less living space, there would be no need to exceed the 20% lot coverage requirement or to have a separate shed.

Ms. Trainor then announced it was now time to hear comments from the Board with respect to the application. Mayor Nicol, Mr. Stenson, Mr. Siano, Ms. Brisben and Mr. Tice stated they had no problems with the application and were glad to see the applicant work out the neighbor's concerns. Mr. Jones stated he agreed with the other Board members and said Mr. Hilla's concerns were noted. Ms. Frith stated she agreed with the other Board members and had no problems with the application. Ms. Trainor stated she accepted Mr. Kociuba's testimony and the reasoning why the variance relief is justified.

Ms. Trainor asked Mr. Clark to list the conditions the Board should consider for a motion. Mr. Clark stated the applicant has agreed to relocate the shed so it does not stick into the setback, the applicant has agreed to remove the spotlight that is currently on the shed and have no spotlights in the backyard, the applicant has stated they are changing the plans so there is no need for the rear yard setback because they are lowering the deck, and the applicant will submit 4 sets of revised

April 12, 2022

plans as a condition of approval that show what is actually going to be constructed per the testimony submitted.

Ms. Trainor asked for a motion to approve the application with the conditions Mr. Clark had listed. Mr. Stenson made a motion, seconded by Mr. Siano, and followed by the roll call vote.

Ayes: Mayor Thomas Nicol, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Charlie Tice

Noes: None

NEW BUSINESS: Application for variance relief for Block 76.01, Lot 3, 414 Brown Street, owned by Allison Princiotta (Applicants — Richard & Rosalie Giordano), to allow construction of a second-floor addition & dormers. Front Yard Setback (2<sup>nd</sup> floor) —40 feet required, 26.10 feet proposed. Existing Nonconforming Conditions: Minimum Lot Area — 15,000 square feet required, 10,000 square feet existing. Minimum Lot Depth — 125 feet required, 100 feet existing. Front Yard (1<sup>st</sup> floor) —40 feet required, 24.7 feet existing. Lot Coverage — 20% maximum allowed, 25.63% existing.

Mr. Richard Giordano, 6 Clarendon Lane, Hilton Head Island , South Carolina, stated he would be testifying before the Board on behalf of the applicant, Allison Princiotta, his daughter. Mr. Giordano was sworn in by Mr. Clark.

Mr. Giordano began by saying that the present footprint of the house is nonconforming with the Zoning variance and that they would not be increasing the footprint for Lot coverage that is presently there. Mr. Giordano stated a new roof was needed and while replacing the roof they would like to add a bedroom and bathroom upstairs without increasing the footprint.

Ms. Trainor asked Mr. Giordano if he were the only witness that would be testifying to which he replied that he was. Ms. Trainor asked Mr. Giordano if he had received a copy of Mr. Hilla's March 10<sup>th</sup> letter. Mr. Giordano answered that he had received a copy. Mr. Giordano stated it was his understanding from his architect, Michael Melillo, that the question of the front yard setback was the issue. Mr. Giordano stated that the house was conforming with all the other houses on the block that are less than the 40-foot setback for Brown Street and said he believed that the Zone was changed at some point. Ms. Trainor referenced paragraph 2 in Mr. Hilla's letter which said that the plot plan depicted some feature along the eastern property line and asked Mr. Giordano to add clarity with respect to that. Mr. Giordano answered that it was a vegetable garden that his daughter has that has 2x4's that outline it to separate it from the lawn. Mr. Giordano stated he could provide the Board with a survey depicting that.

Ms. Trainor announced it was time to hear questions for Mr. Giordano from the Board. Mayor Nicol, Mr. Stenson, Mr. Siano, Ms. Frith, Mr. Jones, Mr. Tice, and Ms. Trainor stated they had no questions. Ms. Brisben asked Mr. Giordano how old the home was and to confirm whether or not

he would be changing the Lot coverage. Mr. Giordano answered he thought it was built in the mid sixty's and the Lot coverage would not be changing.

Ms. Trainor announced it was time to hear questions for Mr. Giordano from the public. Hearing none, Ms. Trainor asked Mr. Hilla if he had any comment in regard to the application. Mr. Hilla replied that he did not. Ms. Trainor announced it was time to hear comments from the public in regard to the application. Hearing none, Ms. Trainor announced it was time to hear comments from the Board. Mayor Nicol and Mr. Stenson stated he had no issues with application. Mr. Siano stated he was in favor of the application and thought it would be a nice addition to the neighborhood. Ms. Brisben said that considering the age of the home and because the existing nonconformities were legal at the time, she would have no problem approving the application. Mr. Jones stated he felt it would be a nice addition. Ms. Frith stated she was in favor of the application and thought it would be a lovely addition. Mr. Tice also stated he was in favor of the application. Ms. Trainor stated she agreed with Ms. Brisben with respect to the existing nonconformities and the age of the home and thought the changes Mr. Giordano and his daughter were proposing would be worthy additions to the neighborhood.

Ms. Trainor asked Mr. Clark to list the conditions or issues the Board should consider for a motion. Mr. Clark stated that the applicant had agreed to supply the Board with a copy of the 2020 survey which was referenced within the plot plan and that the Board would put a timeline in the condition of the approval that requires that it be submitted. Mr. Clark stated that there were no other specific conditions.

Ms. Trainor asked for a motion to approve the application with the condition Mr. Clark had listed. Mayor Nicol made a motion, seconded by Mr. Siano, and followed by the roll call vote.

Ayes: Mayor Thomas Nicol, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Charlie Tice

Noes: None

Ms. Trainor asked if anyone had any other business they would like to bring before the Board. Hearing none, Ms. Trainor announced that the Board would be going into a closed executive session. Mayor Nicol asked Mr. Clark if he was allowed to be involved in the executive session. Mr. Clark answered that he did not think that Mayor Nicol participated in the original approval because it was a Zoning Board matter and stated he thought he could recuse himself. Mayor Nicol announced that he was going to recuse himself from the session.

Ms. Trainor asked for a motion to go into closed executive session to discuss litigation. Mr. Stenson made a motion, seconded by Mr. Siano, and followed by the roll call vote.

Ayes: James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Jay Jones, Charlie Tice

Noes: None



April 12, 2022

The Planning Board then went into Executive Session at 7:25pm and adjourned at 8:30pm. The topic discussed was ongoing Waypoint 622 litigation. The Planning Board Attorney briefed the Board on the status of the lawsuit. The details of this matter will be made public at the conclusion of the litigation.

Mr. Clark announced that the Board was out of closed session. Ms. Trainor asked for a motion to adjourn. James Stenson made the motion, seconded by Karen Brisben, and unanimously approved by the Board, all ayes. The meeting adjourned at 8:33pm.

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Denise Murphy, Recording Secretary

Approved: May 10<sup>th</sup>, 2022

LAW OFFICE OF  
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April 12, 2022

David Clark, Attorney at Law (dclark@glucklaw.com)  
Gluck Walrath, LLP  
4 Paragon Way  
Freehold, NJ 07728

Re: Brielle Planning Board, Frank Angelo Application , 414 Melrose Avenue

Dear Mr. Clark,

April 12, 2022

I represent Michele Spencer, who resides at 414 Union Lane, Brielle New Jersey. Her property is located behind the Angelo property located at 414 Melrose Avenue which is before the Planning Board this evening. My client has had discussions with Mr. Angelo and his engineer, Josepha Kociuba, P. E. regarding the rear deck. The rear deck is currently proposed to be 26 inches or thereabout above grade. My client had concerns that the deck would impact her privacy due to its height.

In response to our concerns Mr. Angelo agreed to create a 4' by 22' landing off the rear of his house with two steps leading to the deck, which deck would be approximately 8" above grade where it abuts the existing paver patio. In addition, Mr. Angelo stipulated that there would be no spot lights in his rear yard. There is an existing spot light on the shed that will be removed

Based upon those changes my client has no objection to the application being approved. We would kindly request that the conditions regarding the deck and spotlights be incorporated in the Resolution if the application is approved.

Very truly yours,

Timothy B. Middleton